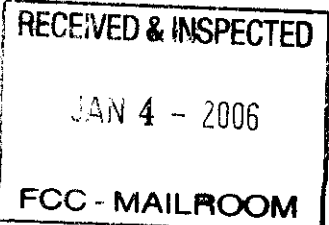




LEMAR Consulting, Inc.
Technology Planning, Management, Professional Development



Sunday, December 25, 2005

Letter of Appeal
FCC, Office of the Secretary
445 12th Street SW
Room TW-A325
Washington, DC 20554

Re: Asbury Park School District
Billed Entity Number: 122971
Funding Year: 2005 (07/1/2005 - 06/30/2006)
471 Application Number: 461127
Funding Request Number: 1273085
CC Docket No. 02-6

I am writing to request a review the decision not to fund FRN 1273085 as indicated in the Funding Commitment Decision Letter (FCDL) dated June 27, 2005 and, again denied, in The Administrator's Decision on Appeal dated October 28, 2005.

The FCDL offered explanation that the funding commitment decision is due to "30% or more of this FRN includes a request for creation or modification of content in web hosting which is an ineligible product(s)/service(s) based on program rules." This decision not to fund came as a surprise as there was no contact from the reviewer with either the Distruct or the vendor to gather any information that may have been helpful to determine eligibility.

The conclusion that the FRN contains content creation/modification is not inaccurate. This service provides no creation or modification of content. Rather, the teacher/student provides content; iNota simply is a conduit for that info, storing only the content needed for its distribution via the Internet.

On appeal to USAC, we argued that the iNOTA WEB Hosting Service includes no content creation or modification functions, that content creation and modification are handled entirely outside the system using standard WINDOWS-based software utilities and applications. While teachers and students sometimes need content-authoring capabilities, these functions have been deliberately excluded from the funding request because of their ineligibility.

The iNOTA WEB Hosting Service is an Internet access system that allows teachers and students to upload and download multimedia information in a secure and controlled way. No content is created or modified on the server side. Teachers and students use the iNOTA services to organize and display content and share it among themselves."

However, the Administrator's Decision on Appeal (ADA) letter, denied the appeal on totally different merits -- again coming to a decision without contact or additional information. The ADA did not address the concern that there had been no contact from the reviewer for the original decision, stated that it had addressed "relevant supporting documentation" of unknown nature,

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and concluded that funding would now be denied because iNOTA is a "Specialized Service," a "proprietary system." This is vastly different than the reason originally offered for denial, and, therefore, a rationale to address this reasoning would have been impossible offer in our appeal of August 19, 2005.

Apparently, the rationale behind this decision rests on the phrase that "teachers and students use the iNota services to organize and display content and share it among themselves." Therefore the system is "limited to only a few users rather than serving as an information resource for public internet usage."

The description of how it is used in the classroom is not exclusive of the content being available across the public internet. In fact, there is nothing in the appeal language or in the product's documentation that provides information for which the decision can be based – there is no evidence that iNOTA content cannot be displayed on the world-wide-web.

We are confused as to how these decisions have been made. First, we were denied funding because the product was deemed to offer content creation and modification. Upon appeal, we find that is not the case but rather, the product is now deemed as proprietary and not available to the public-at-large via the Internet. Both of these conclusions are untrue. In neither instance was the District's representative or the company, ComWeb, contacted to glean any additional information about the product under evaluation.

The product in question should be reconsidered as an eligible product according to the Eligible Services List (47 C.F.R. §§ 54.502.54.503. As such, APSD respectfully requests that this decision be reversed in its entirety.

Sincerely,

Martin Friedman,
Consultant, Asbury Park Public Schools